IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:09-CR-381-BO NO. 5:14-CV-232-BO

TRONE BRONKEITH TILLERY,)	
Petitioner,)	
v.)	ORDER
UNITED STATES OF AMERICA,)	
Respondent.)	

This matter is before the Court on the government's corrected motion for new judgment and to dismiss. [DE 196]. The government represents that it cannot refute petitioner's claim of ineffectiveness on the part of his counsel. The government requests that this Court allow petitioner the limited right to file an out-of-time notice of appeal. The government represents that it has consulted with petitioner's present counsel who does not object to the instant motion.

Accordingly, for good cause shown, the Clerk is DIRECTED to VACATE the judgment of conviction entered in this matter on January 7, 2014, and to re-enter a new, identical judgment of conviction from which Mr. Tillery may appeal consistent with the Federal Rules of Appellate Procedure. Mr. Tarlton will remain as petitioner's counsel through the filing of the notice of appeal. As a new judgment shall be entered in this matter, petitioner's motion to vacate pursuant to 28 U.S.C. § 2255 the government's pending motion to dismiss are now DISMISSED AS MOOT without prejudice.

SO ORDERED. This the 33 day of November, 2014.

TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE